

1 Paul T.; Yeagley, June I.; La Fleur-Smith, Stephanie; Smith, Chad; Simpson, Richard L.; Suttor,  
2 James T.; Suttor, Lisa M.; Perry, James K; Perry, Martha M.; Scarlett, Patricia; Stephens, Gary;  
3 Smith Valley Hall, Inc.; Aldridge, Howard; Aldridge, Rhonda; Budak, Mark D.; Alvarenga, Raul  
4 Antonio; Karabiyik, Kamil; Karabiyik, Joann; Reynolds, Frank C.; Reynolds, Vera K.; Andersen  
5 Family 1992 Trust; Titus, Robin Lee; Smith Valley Scales, Inc.; Scott, Jack A.; Sierra Nevada  
6 Geothermal, Inc.; Wickenden, James R; Wickenden, Natasha A.; Tyler, Tobi L.; Steidtmann,  
7 Howard; Hogarth, Arlyn David; Hogarth, Debra L.; The Ward Family Trust; Waller, Don A.; Waller,  
8 Kathy L.; Frederick W. Wagener and Joisa N. Wagener Family Trust; Wagener, Mark H.; Wagener,  
9 Barbara; The Woodworth Family Trust; Spurlock, Mark; Spurlock, Stacy L.; Walsh, MD, Tom J.;  
10 Walsh, Anna M.; Wipfli Family Trust; (Worrell) Sanderson, Mildred I; Hanson, Gary; Hanson,  
11 Beverly; Meddles, Wilber Mark; Meddles, Maria Lisa; Cooper-Carpenter Development; Kelton,  
12 Daron Jay; Kelton, Suzanne C.; Hamlett Group LTD Partnership; Leroy H. Storke and Lois E. Storke  
13 Family Trust; Preppy Vision LLC; Wright, Robert E. L.; Eckel, Estate of Mary V; Eckel, Estate of  
14 Edgar S.; Marshall, Estate of Theron L.; McClellan, Estate of Frank; Petersen, Estate of Donald D.;  
15 Barber, Harriet C.; Barber, Estate of S. Morgan; Estate of Theran L. Marshall; Humphries, Lynn  
16 Frances; Kraske, Jack; Kraske, Sandra L.; Nagel, Diane Suzan; Stephens, Rodney Lee; Nordyke  
17 Properties, LLC; Riddle, Eldon L.; Roe, Dennis; Roe, Shannon; Westfork; Kircher, Joseph ; Riva,  
18 Herbert R; Clarke-Fairbanks, Christine R.; Riva, Herbert John; Curtis, Brent; Curtis, Jeanne;  
19 Wallace J. Cavanaugh Trust; Cavanaugh, Wallace J.; Amalgamated Minerals Intl, Inc; Pitchfork  
20 Ranch, Inc.; Giorgi, Baldo; Giorgi, Jr., Ugo; Giorgi, Elmo; Richardson, Gary W; New Hall-Daniel  
21 Ditch, Inc.; Renner & Associates, LP; Perry, James; Perry, Marti; Williams, Thomas E.; Williams,  
22 Sandra Dee; Bellizzi, Paul A.; Bellizzi, Sandra B.; Breese, Christina M.; Breese III, Walter D.;  
23 Hauan, Alan O.; Hauan, Victoria; Bertrand, Estate of Noe; Bertrand, Linville F; Braun, Charles F.;  
24 Braun, Patricia; Brinkley, Charles L.; Brinkley, Donna G.; Cornman, Robert; Lowery, William K;  
25 Lowery, Ruby M.; Marriott, Lorna; Fannerella 1991 Trust; Gerald Arthur Schmiedeberg and Victoria  
26 Anne Schmiedeberg 2001 Family Trust Agreement; Muncy, B.J.; Muncy, Ruth; William B. Jacobsen  
27 and Judith A. Jacobsen Trust Agreement; Newby, Dane; Sturgill, Jr., Robert F.; Sturgill, Deborah  
28 A.; Schroder, Austin R.; Schroder, Julia G.; Jones-Caverly, Mary Ann L.; Jones, Frederick G.;  
Richard I Mahnke & Margaret Mahnke Family Trust; Mason, Robin ; McMahon, Lorie J.;  
McMahon, Merle D.; Cathy L Kerrigan Trust DTD 12/16/05; Strople, Paul S.; Strople, Susan J.;  
Guild III, Clark Joseph; Guild, Catherine L.; Hill, Alison B.; Buchwalter, Dudley E.; Mullen Family  
Trust dtd 8/4/05; Carney Revocable Living Trust; Carney, Ruth L.; Capra, Scott A.; Capra, Kim;  
Park River Split Ranch, LLC; Castaneda, Jose J.; Denton Trust dtd 5/15/97; Davies, Gregory G.;  
Davies, Ann E.; Barton, Luverne A; Barton, Sherrie; Towe, Cora; Towe, Wilford L.; Tibbals, Joy  
M.; Metallic Ventures (U.S.), Inc.; Scalise, Joseph F.; Scalise, Farrare; Walsh, Janine Y.; Walsh,  
Stephen L.; Dorsey, Bernard; Dorsey, Ardith; Lodato, Estate of Joseph S.; Carole A. Romine Trust  
DTD 12/16/05; Hardy, Shelly M; Hardy, Theresa M.; Richard Dean and Carol Ann Ernst Family  
Trust dtd 8/26/1992; Reger, Estate of Kristine; Snyder, Jim; Snyder, Bunny; Ruben, Ann; Ruben,  
Keith; Cain, Jeffery; Cain, Linda; Dacquisto, Anthony D.; Dacquisto, Dominic; Dacquisto, Josie;  
Funez, Roy J.; Precious Metals Recovery System LLC.; California Reconveyance Company; Nevada  
Copper, Inc.; Allen, Bernard; Allen, Margaret; Honker Gun Club; Bellew, Estate of Daniel T.;  
Bolton, Daniel Brents; Sierra Roadhouse; Coyle, Julie; Dunn Living Trust dtd 2/20/1998; Emery,

1 Brett A.; Fulstone, Estate of Ed; Northern Nevada Urgent Care LP; The Mary A. Hartman Family  
2 Trust; Elephant, LLC; Hoferer Sr., Robert L.; Hoferer, Arlene M; Hulstrom, Donna J.; Hulstrom,  
3 Gene E.; Kassebaum, Rita; Kassebaum, Darold; King, Kuniko; King, Roy A.; Luning, Estate of  
4 Eugene T.; Manha, Lorraine N; Manha, William D; Murphy, Dana; Murphy, Patrick; Quail Run,  
5 LTD; Norman, Tim; Parraguire, Estate of David; William H. Pennebaker 2007 Trust Agreement;  
6 GRP Loan LLC; Reed, Richard Ross; Riva, Estate of Herbert R.; Saunders, Estate of Eva; Simpson,  
7 Gerald M.; Vaccaro, Lori C.; Wescott, Donald C.; Wescott, Patricia J.; Wood, Wanda L.; Wood,  
8 Kenneth B.; Virginia Lake Mutual Water Co.; Park Livestock Company; State of California Water  
9 Resources Control Board; Baker, Christina; Topaz Lake Mobile Home Park, LLC; Berinati, Donald  
10 J.; Christiansen, Jeffrey L.; Christiansen, Jill; The Spring Valley Trust; Courtney, Jean; Courtney,  
11 Gordon; Courtney, Debra Marie; Curry, Robert R.; Dunn, Tammy M.; Robert S. Dunn and Tammy  
12 M. Dunn 1997 Revocable Family Trust; Dunn, Robert S.; Eitel-Marti, Loretta Beth; Brett A. Emery  
13 1999 Revocable Trust dtd 12/27/1999; Eastern Sierra Unified School District; Johnson, Donald M.;  
14 Katusich, Michael; Katusich, Mary Lynne; The Trust for Public Land; California Department of  
15 Parks & Recreation; Marti, Steve; Mausbach, Judith; Reasoner, Martha; Reasoner, Gary; Schmidt,  
16 Reinhard E.; Smith, Donna; Smith, Richard; Rockhound Family 1991 Trust dtd 4/11/199; Sommers,  
17 Michael C.; Sommers, Linda; The Stevens Family trust udt 11/18/03; Swauger Ranch Inc.; Valdez,  
18 Ramon V.; Valdez, Myrna E.; Ramon V. and Myrna E. Valdez 2003 Revocable Trust uta Dated  
April 8, 2003; Watkins, Louis H.; Wooldridge Family Trust dtd 9/13/1988; Toiyabe Indian Health  
Project, Inc.; Bridgeport Reservoir Recreation Area, Inc.; Annett, Estate of Alpha; Annett, Norman  
W.; Cal-Coast Marine, Inc.; Gilleland, Avery C.; Gilleland Theresa; The L.A. and C.R. Harlander  
Trust; Hinds, Jeffery H.; Hinds, Michele C.; Nearpass, Lynn; Nearpass, Lois; The Fesko Family  
Trust UDT 1-6-93; Alpine Propert Management, Inc.; Twin Lakes Enterprises, Inc.; Little, James  
Edgar; Little, Brinn Ellen; Napier Family Trust; American Land & Leisure, Inc.; The Charles A.  
Baker, Jr. Family trust dtd 6/20/2008; Maynard M. Enos and Anne L. Enos Revocable Trust Under  
Trust Agreement Dated March 16, 1995; Walker General, Inc.; Sandra Marshall Living Trust; Webb,  
John S.; Webb, Carolyn J.; Smith, Daniel; Cramer, Robert.

Counterdefendants,

All known Claimants to Groundwater and Water of the  
Walker River and its Tributaries in the State of Nevada  
and the State of California.

Complete Caption to be Served at a Later Date

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FIRST AMENDED COUNTERCLAIM OF THE  
UNITED STATES OF AMERICA

COMES NOW, the United States of America, at the request of the Secretary of Defense, the Secretary of Agriculture, and the Secretary of the Interior, by and through its undersigned attorneys, on its own behalf and for the benefit of the Walker River Paiute Tribe, the Yerington Paiute Tribe, the Bridgeport Paiute Indian Colony, and several individual Indians who are owners of allotments, either held in trust by the United States or held in restricted status by the United States, and herewith asserts the following claims:

INTRODUCTION

1. This first amended counterclaim is made for the confirmation and declaration of certain rights in the United States to the use and storage of water in, on, under and otherwise appurtenant to certain lands in the Walker River basin owned by the United States that are under the jurisdiction of the Department of Defense, the Department of Agriculture and the Department of the Interior, or, held in trust or restricted status by the United States for the benefit of individual Indians, and certain Indian Tribes. The rights set forth in this first amended counterclaim are in addition to the right to divert the natural flow of the Walker River and its tributaries, awarded to the United States in the Decree entered in this action on April 15, 1936, as amended on April 24, 1940 in United States v. Walker River Irrigation Dist., In Equity No. C-125, hereinafter, the "Decree."

JURISDICTION

2. Jurisdiction over this first amended counterclaim is pursuant to (i) the continuing jurisdiction of this Court, by virtue of the Decree entered herein, over the waters of the Walker River and its tributaries in California and Nevada; (ii) 28 U.S.C. §1345 in that the proceedings are brought by the United States; (iii) 28 U.S.C. §1367 which vests the court with supplemental jurisdiction; (iv)

1 28 U.S.C. §1651 which authorizes the court to issue all writs necessary or appropriate in aid of its  
2 jurisdiction; (v) 28 U.S.C. §1331, in that this first amended counterclaim is brought by the United  
3 States of America, on its own behalf and for the benefit of individual Indians, and Indian Tribes, and  
4 the matter in controversy arises under the Constitution, laws or treaties of the United States.  
5

#### 6 PARTIES

7 3. Counterclaimant, the United States of America, appears in this case on its own behalf and  
8 for the benefit of specified individual Indians, and certain Indian Tribes.

9 4. Counterdefendants are all claimants to water of the Walker River and its tributaries,  
10 including groundwater.  
11

#### 12 GENERAL ALLEGATIONS

13 5. The United States of America, under the Decree, currently has the right to use the natural  
14 flow of the waters of the Walker River and its tributaries in the amount of 26.25 cubic feet per second  
15 with a priority date of November 29, 1859, to irrigate 2,100 acres of land on the Walker River  
16 Reservation.

17 6. The suit commenced by the United States in 1924, under Docket Number C-125, was  
18 brought to quiet title and only concerned the water rights for use on the Walker River Indian  
19 Reservation as those boundaries existed at the time the suit was commenced. The suit did not  
20 adjudicate the groundwater rights of any of the parties in the litigation.

21 7. Paragraph XII of the 1936 Decree, entered on April 15, 1936, was amended on April 24,  
22 1940, to reflect that the Decree determined water rights "as of the 14th day of April, 1936."  
23 Paragraph XIV of the Decree provides that this Court retains jurisdiction for a number of purposes,  
24 including modification of the Decree.

25 8. Subsequent to April 14, 1936, numerous persons and other entities, including the United  
26 States, have appropriated additional waters from the Walker River Basin and its tributaries. In many  
27 instances such claims to the use of water have not been subject to any adjudicative process.

28 9. In addition to the Walker River Indian Reservation, there are other lands within the Walker

1 River Basin owned by the United States that are under the jurisdiction of the Department of Defense,  
2 the Department of Agriculture and the Department of the Interior. There are also lands in the Walker  
3 River Basin, in addition to the Walker River Indian Reservation, owned by the United States and held  
4 in trust or restricted status for the benefit of specified individual Indians, the Bridgeport Paiute Indian  
5 Colony and the Yerington Paiute Tribe.

6 These lands and their appurtenant water rights and claims for water are more particularly  
7 described below.

8  
9 **FIRST CLAIM FOR RELIEF**

10 **WEBER RESERVOIR**

11 10. Weber Reservoir is a federally-constructed reservoir located on the Walker River Indian  
12 Reservation with a storage capacity of approximately 13,000 acre feet. The reservoir was practically  
13 completed in 1935, although floodgates were added in 1937. The United States, for the benefit of the  
14 Walker River Paiute Tribe, is entitled to store water from the Walker River and its tributaries in  
15 Weber Reservoir for all purposes recognized under federal law including but not limited to irrigation,  
16 stock watering, fish and wildlife, and domestic uses.

17 11. By the use of Weber Reservoir to store water, the Walker River Paiute Tribe can irrigate  
18 more than the 2,100 acres which it presently is entitled to irrigate under the terms of the Decree.

19 12. The right to store water in Weber Reservoir has a priority date of April 15, 1936. The  
20 amount claimed is 13,000 acre-feet plus evaporation and seepage.

21 **SECOND CLAIM FOR RELIEF**

22 **LANDS RESTORED TO WALKER RIVER RESERVATION**

23 13. Paragraphs 1-12 are incorporated herein as if fully set forth in this paragraph 13.

24 14. The Walker River Indian Reservation was established in 1859 with a land base of  
25 approximately 320,000 acres. Under the Act of May 27, 1902, 32 Stat. 260-261, the Reservation land  
26 base substantially reduced. A substantial part of these original Reservation lands, however, were  
27 restored to the Reservation on September 25, 1936, pursuant to the Act of June 22, 1936. The Act of  
28 June 22, 1936, 49 Stat. 1806-07, authorized the Secretary of the Interior to set aside certain lands as



1 an addition to the Walker River Indian Reservation. In accordance with the legislation, by Order  
2 dated September 25, 1936, the Secretary restored to the Walker River Indian Reservation  
3 approximately 167,460 acres.

4 15. The United States, for the benefit of the Walker River Paiute Tribe, is entitled to use  
5 water from the Walker River, its tributaries, and all other water located in, on, under, adjacent or  
6 otherwise appurtenant to the restored lands of the Reservation for all purposes recognized under  
7 federal law. The restored lands of the Reservation are entitled to a federal reserved water right as of  
8 the date of restoration.

9 16. The United States, for the benefit of the Walker River Paiute Tribe, is entitled to water  
10 rights for the restored lands in addition to the rights now recognized for use on the lands of the  
11 Reservation under the Decree.

12  
13 THIRD CLAIM FOR RELIEF

14 GROUNDWATER FOR ALL LANDS WITHIN WALKER RIVER RESERVATION

15 17. The United States, for the benefit of the Walker River Paiute Tribe, is entitled to use the  
16 groundwater of the Walker River basin located in, under, adjacent or otherwise appurtenant to all  
17 lands of the Walker River Indian Reservation not otherwise claimed in this First Amended  
18 Counterclaim.

19 18. The amount claimed is the amount necessary to fulfill the purposes of the Reservation.

20 19. The priority date claimed is November 29, 1859, or, in the alternative, April 15, 1936.

21 FOURTH CLAIM FOR RELIEF

22 YERINGTON PAIUTE TRIBE

23 20. Paragraphs 1-19 are incorporated herein as if fully set forth again in this paragraph 20.

24 21. The United States, at the request of the Secretary of the Interior, and for the benefit of the  
25 Yerington Paiute Tribe, makes the following claim for water from the Walker River, its tributaries,  
26 and all other water located in, on, under, adjacent or otherwise appurtenant to the lands hereinafter  
27 described.

28 22. The Yerington Reservation is located in Lyon County, Nevada, approximately eighty (80)

1 miles southeast of Reno, Nevada. The Reservation contains 1,636.24 acres, of which approximately  
2 22.9 acres are located within the City of Yerington, Nevada. The majority of these lands were  
3 acquired pursuant to the Indian Reorganization Act, §§ 5, 7, 48 Stat. 984, 25 U.S.C. §§ 465, 467.

4 23. The United States claims federal reserved water rights for these lands with the following  
5 priority dates:

6 A. Parcel 1:

7 Parcel 1 is 9,456 acres located in Section 22, T. 13 N., R. 25 E., MDM. The priority date  
8 claimed is May 25, 1917, which is based on the Act of May 18, 1916, 39 Stat. 143. In the alternative,  
9 the priority date claimed is April 15, 1936.

10 B. Parcel 2:

11 Parcel 2, which is sometimes referred to as Campbell Ranch, is 1,036.24 acres located in  
12 portions of Sections 7, 17, 18, and 20. MDM. The priority date claimed is December 10, 1936, the date  
13 of purchase, which purchase was made pursuant to the Indian Reorganization Act of 1934, §§ 5, 7, 48  
14 Stat. 984, and the Act of May 9, 1935, 49 Stat. 176.

15 C. Parcel 3:

16 Parcel 3 is 120 acres located on the N1/2 of the NE1/4 OF Section 18, and the NE1/4 of the  
17 NW1/4 of Section 20, T. 14 N., R. 25 E., MDM. The priority date claimed is June 18, 1940, which is  
18 based on the Act of June 18, 1940, 54 Stat. 414-415. In the alternative, the priority date claimed is  
19 November 15, 1941.

20 D. Parcel 4:

21 Parcel 4 is 12.91 acres in or near the Town of Yerington located within the NW1/4 of Section  
22 22, T. 14 N., R. 25 E., MDM. The priority date claimed is the date of purchase, January 20, 1978.

23 E. Parcel 5:

24 Parcel 5, which is sometimes referred to as Arrowhead Ranch, is approximately 480 acres  
25 located in the W1/2 and the W1/2 of the E1/2 of Section 16, T. 14 N., R. 25 E., MDM. The priority  
26 date claimed is April 9, 1979.

27 24. The federal reserved water claimed for the benefit of the Yerington Paiute Tribe is claimed  
28 in order to fulfill the purposes of the Reservation. In addition to the claims set forth

1 above for federal reserved rights, the United States also seeks a declaration and confirmation of the  
2 water rights held under state law which have been acquired in connection with the above described  
3 parcels.

4  
5 FIFTH CLAIM FOR RELIEF

6 BRIDGEPORT PAIUTE INDIAN COLONY

7 25. Paragraphs 1-24 are incorporated herein as if fully set forth again in this paragraph 25.

8 26. The United States, at the request of the Secretary of the Interior, and for the benefit of the  
9 Bridgeport Paiute Indian Colony makes the following claim for water from the Walker River, its  
10 tributaries, and all other water located in, on, under, adjacent or otherwise appurtenant to the lands  
11 hereinafter described.

12 27. The Bridgeport Paiute Indian Colony consists of 40 acres and is located in the  
13 SE1/4NE1/4, Section 28, T. 5 N., R. 25 E., MDB&M.

14 28. The United States claims federal reserved water rights for the Bridgeport Paiute Indian  
15 Colony, made pursuant to an Act of Congress, 88 Stat. 1368, with a priority date of no later than  
16 October 18, 1974, the date of creation of the Colony.

17 29. In addition, for the Bridgeport Paiute Indian Colony, the United States also claims water  
18 rights based on California law, including but not limited to riparian, overlying and prescriptive rights,  
19 if any.

20 30. The water claimed for the benefit of Bridgeport Paiute Indian Colony is claimed in order  
21 to fulfill the purposes of the Colony.

22  
23 SIXTH CLAIM FOR RELIEF

24 GARRISON AND CLUETTE ALLOTMENTS

25 31. Paragraphs 1-30 are incorporated herein as if fully set forth again in this paragraph 31.

26 32. The United States, at the request of the Secretary of the Interior, and for the benefit of the  
27 Garrison and Cluette allottees makes the following claim for water from the Walker River, its  
28 tributaries, and all other water located in, on, under, adjacent or otherwise appurtenant to the lands



hereinafter described.

33. The Garrison and Cluette Allotments are both located in S. 17, T. 8 N., R. 23 E., MDB&M. The Garrison Allotment consists of 30.18 acres; the Cluette Allotment consists of 20.02 acres.

34. The United States claims federal reserved water rights for the Garrison and Cluette allotments, made pursuant to the Act of June 30, 1932, 47 Stat. 474, with the following priority dates:

A. Garrison Allotment:

The priority date claimed is no later than November 10, 1933. In the alternative, the priority date claimed is April 15, 1936.

B. Cluette Allotment:

The priority date claimed is no later than May 8, 1933. In the alternative, the priority date claimed is April 15, 1936.

35. In addition, for both allotments, the United States also claims water rights based on California law, including but not limited to riparian, overlying and prescriptive rights.

36. The water claimed for the benefit of the Garrison and Cluette Allottees is claimed in order to fulfill the purposes of the allotments, above and beyond any water rights already acquired under State law for these allotments.

## SEVENTH CLAIM FOR RELIEF

### INDIVIDUAL ALLOTMENTS

37. Paragraphs 1-36 are incorporated herein as if fully set forth in this paragraph 37.

38. The United States, at the request of the Secretary of the Interior, and for the benefit of the individual Indians, makes the following claim for water from the Walker River, its tributaries, and all other water located in, on, under, adjacent or otherwise appurtenant to the lands hereinafter described:

	Allotment #	Township	Range	Section	Portion	Area (acres)	Walker R. Basin
1	402	10N	21E	1	NW 1/4	119.43	Yes
2	212	10N	21E	1	SW 1/4	160	Yes

3	403	10N	21E	2	NE1/4	159.50	Yes
4	404	10N	21E	2	NW1/4	159.05	1% de
5	405	10N	21E	2	SW1/4	160	Partial
6	719	10N	21E	2	SE1/4	160	Yes
7	406	10N	21E	11	NW1/4	160	Partial
8	723	10N	21E	14	NE1/4	160	Partial
9	721	10N	21E	12	NW1/4	160	Yes
10	735	10N	21E	14	SE1/4	160	1% outside
11	699	10N	21E	12	SW1/4	160	Yes
12	698	10N	21E	12	SE1/4	160	Yes
13	725	10N	21E	13	NE1/4	160	Yes
14	726	10N	21E	13	NW1/4	160	Yes
15	727	10N	21E	13	SW1/4	160	Yes
16	718	10N	21E	13	SE1/4	160	Yes
17	715	10N	21E	24	NE1/4	160	Yes
18	716	10N	21E	24	NW1/4	160	Partial
19	717	10N	21E	24	SE1/4	160	Yes
20	682	10N	22E	1	S1/2NE1/4	80	Yes
		10N	22E	1	SE1/4NW1/4	40	Yes
		10N	22E	1	NE1/4NE1/4	32.69	Yes
21	304	10N	22E	3	S1/2NW1/4	80.01	Yes
		10N	22E	3	NW1/4NW1/4	38.88	Yes
		10N	22E	3	NE1/4NW1/4	38.71	Yes
22	303	10N	22E	4	S1/2NE1/4	80	Yes
		10N	22E	4	NE1/4NE1/4	39.01	Yes
		10N	22E	4	NW1/4NE1/4	39.12	Yes
23	289	10N	22E	4	NW1/4	158.59	Yes
24	288	10N	22E	4	SW1/4	160	Yes
25	290	10N	22E	4	SE1/4	160	Yes
26	236	10N	22E	6	NE1/4	160	Yes
27	235	10N	22E	6	NW1/4	160	Yes
28	237	10N	22E	6	SE1/4	160	Yes

29	238	10N	22E	7	NE1/4	160	Yes
30	276	10N	22E	7	E1/2SE1/4	80	Yes
		10N	22E	8	S1/2SW1/4	80	Yes
31	277	10N	22E	8	S1/2SE1/4	80	Yes
		10N	22E	17	N1/2NE1/4	80	Yes
32	260	11N	21E	36	NE1/4	160	Yes
33	259	11N	21E	36	NW1/4	160	Yes
34	399	11N	21E	36	N1/2SE1/4	80	Yes
		11N	21E	36	SE1/4SE1/4	40	Yes
35	257	11N	21E	25	SW1/4	160	Partial
36	258	11N	21E	25	W1/2SE1/4	80	Yes
		11N	21E	25	SE1/4SE1/4	40	Yes
37	215	11N	21E	25	NE1/4NE1/4	39.95	No
		11N	22E	30	NW1/4NW1/4	39.48	Partial
		11N	22E	30	SW1/4NW1/4	39.48	Yes
38	216	11N	22E	30	W1/2NE1/4	80	Partial
		11N	22E	30	E1/2NW1/4	80	Partial
39	217	11N	22E	30	E1/2NE1/4	80	Partial
		11N	22E	29	W1/2NW1/4	80	Partial
40	218	11N	22E	29	W1/2NE1/4	80	Partial
		11N	22E	29	E1/2NW1/4	80	Partial
41	285	11N	22E	30	E1/2SW1/4	80	Yes
		11N	22E	30	NW1/4SW1/4	39.54	Yes
		11N	22E	30	SW1/4SW1/4	39.59	Yes
42	286	11N	22E	30	SE1/4	160	Yes
43	287	11N	22E	29	SW1/4	160	Yes
44	344	11N	22E	29	SE1/4	160	Yes
45	305	11N	22E	31	E1/2NW1/4	78.02	Yes
		11N	22E	31	NW1/4NW1/4	39.67	Yes
		11N	22E	31	SW1/4NW1/4	39.76	Yes
46	306	11N	22E	31	NE1/4	160	Yes
47	400	11N	22E	31	SW1/4	159.81	Yes

48	401	11N	22E	31	SE1/4	160	Yes
49	702	12N	22E	24	NE1/4	160	Yes
50	700	12N	22E	24	NW1/4	160	Yes
51	701	12N	22E	24	SW1/4	160	Yes
52	705	12N	22E	24	SE1/4	160	Yes
53	703	12N	22E	25	NW1/4	160	Yes
54	704	12N	22E	25	SW1/4	160	Yes
55	706	12N	22E	25	SE1/4	160	Yes

39. The United States claims federal reserved water rights for 55 allotments, made pursuant to the General Allotment Act of 1887, with the following priority dates:

A. Trust Allotments 1 through 5, 7 and 21 through 48:

The priority date claimed is no later than December 31, 1895. In the alternative, the priority date claimed is April 15, 1936.

B. Trust Allotments 6 and 8 through 20:

The priority date claimed is no later than May 26, 1908. In the alternative, the priority date claimed is April 15, 1936.

C. Trust Allotments 49 through 55:

The priority date claimed is no later than December 9, 1907. In the alternative, the priority date claimed is April 15, 1936.

40. The water claimed for the benefit of individual Indian allottees is claimed in order to fulfill the purposes of the allotments.

### EIGHTH CLAIM FOR RELIEF

#### HAWTHORNE ARMY AMMUNITION PLANT

41. Paragraphs 1-40 are incorporated herein as if fully set forth in this paragraph 41.

42. The Hawthorne Army Ammunition Plant (hereinafter "Hawthorne Reservation") was originally withdrawn and reserved from the public domain by Executive Order 4531 on October 27,

1 1926. Additional contiguous lands were withdrawn and reserved from the public domain to become  
2 a part of the Hawthorne Reservation pursuant to Executive Order 5664 on July 2, 1931, Executive  
3 Order 5828 on March 30, 1932 and Executive Order 6958 on February 4, 1935.

4 43. Said lands were reserved for the Hawthorne Ammunition Plant for the exclusive use and  
5 benefit of the United States Navy for the development and use as an ammunition depot. In 1979, the  
6 management of the Reservation was transferred to the Department of the Army.

7 44. Pursuant to 10 U.S.C. § 3062, Hawthorne's mission includes:

- 8 (1) preserving the peace and security, and providing for the defense, of the United  
9 States, the Territories, Commonwealths, and possessions, and any areas occupied by  
10 the United States;  
11 (2) supporting the national policies;  
12 (3) implementing the national objectives; and  
13 (4) overcoming any nations responsible for aggressive acts that imperil the peace and  
14 security of the United States.

15 45. The Hawthorne Reservation is located in Mineral County, Nevada adjacent to the town of  
16 Hawthorne on the eastern slope of the Wassuk mountain range and the south shore of Walker Lake,  
17 and contains approximately 147,000 acres of land dedicated to the above-stated mission.

18 46. The United States is entitled to the use of all of the waters located in, on, under, or  
19 otherwise appurtenant to the lands of the Hawthorne Reservation necessary to fulfill all of the  
20 purposes for which the reservation was created as recognized under federal or state law. Such lands  
21 are entitled to a federal water right with a date of priority date as of the date of the withdrawal and  
22 reservation from the public domain.

23 47. The United States of America has and is also entitled to state-based appropriative rights as  
24 well as federally reserved water rights in both surface and underground waters, including, but not  
25 limited to, aquifers, springs, seeps, rivers, streams and lakes wholly or partly on or otherwise  
26 appurtenant to the Hawthorne Reservation including Walker Lake in quantities of water necessary for  
27 present and future use and development of the Hawthorne Reservation and in the accomplishment of  
28 its mission. This includes, but is not limited to: providing water in amounts necessary for

1 commercial, municipal and industrial operations (eg. storage, maintenance, inspection, modification,  
2 testing and demilitarization of munitions); fire-fighting; administration and operation; training;  
3 domestic; recreation; wildlife and livestock management; irrigation; mobilization; deployment; and  
4 tactical applications. Additionally, the United States is entitled to reserved water rights for any and  
5 all other purposes for which the Hawthorne Reservation was withdrawn and reserved.

6 48. The priority date of the reserved water rights for the Hawthorne Reservation, for present  
7 and future use and development and the accomplishment of its mission, is October 27, 1926, the date  
8 Hawthorne was originally withdrawn and reserved from the public domain.

9 49. The reserved and state water rights for the Hawthorne, Reservation for present and future  
10 use and development and the accomplishment of its mission, for the purposes described in paragraphs  
11 44 and 47, supra, include, but are not necessarily limited, to the following water sources, diversions,  
12 storage reservoirs, and amounts:

13 (a) Cottonwood Creek/Black Beauty Reservoir: Water is diverted from the following four  
14 diversion points in Cottonwood Canyon, west and south of the Town of Walker Lake and stored in  
15 Black Beauty Reservoir.

16 Weir #1 - up to 220 GPM

17 Weir #2 - up to 200 GPM

18 Weir #3 - up to 400 GPM

19 Little Catch - up to 50 GPM

20 (b) Squaw Creek/Black Beauty Reservoir: Water is diverted from Squaw Creek up to 75  
21 GPM and is stored in Black Beauty Reservoir.

22 (c) Rose Creek/Rose Reservoir: Water is diverted from Rose Creek up to 200 GPM and  
23 stored in Rose Reservoir. Rose Reservoir has a storage capacity of 39,000,000 gallons (120 acre feet  
24 (a)). Water is drawn from Rose Reservoir via a pipe line to Black Beauty Reservoir.

25 (d) Middle Rose Creek/Rose Reservoir: Water is diverted from Middle Rose Creek up to 75  
26 GPM and is stored in Black Beauty Reservoir.

27 (e) House Creek/Black Beauty Reservoir: Water is diverted from House Creek up to 25 GPM  
28 and is stored in Black Beauty Reservoir.



1 (f) Cat Creek Dam and Reservoir: Water from Cat Creek is stored behind Cat Creek Dam up  
2 to 50,000,000 gallons (153 af). Water from Cat Creek is also stored in Black Beauty Reservoir.

3 (g) Dutch Creek: Water may be diverted from Dutch Creek in amounts necessary for the  
4 future use and development of the Hawthorne Reservation and in the accomplishment of its mission.

5 (h) Black Beauty Reservoir: A 48,000,000 gallon (147 af) storage reservoir which receives,  
6 or may in the future receive, its water from the sources listed in (a) through (g) above.

7 (i) Walker Lake: Sufficient water for the purposes described in paragraphs 44 and 47, supra.

8 50. The reserved water rights for the Hawthorne Reservation, for present and future use and  
9 development and the accomplishment of its mission, for the purposes described in paragraphs 44 and  
10 47, supra, include, but is not limited to, the following groundwater sources and amounts:

11 (a) Well #1 - 950 gpm: Located north of the Industrial Area and south of HWY 95  
12 and used to supply water to the Industrial Area. This water is pumped into a storage tank to be used  
13 on demand.

14 (b) Well #2 - 250 gpm: Located east of the town of Hawthorne and just south of  
15 HWY 95 at the entrance to the South Magazine Area.

16 (c) Well #3 - 250 gpm: Located east of the town of Hawthorne and south of HWY  
17 95 and in the Southern Magazine Area.

18 (d) Well #4 - 250 gpm: Located in the southern storage area of the installation and  
19 used to supply water to the South Magazine area via a pipeline to 3 above-ground tanks.

20 (e) Well #5 - 800 gpm: Located west of Schwear Housing Area and sometimes  
21 stored in Black Beauty Reservoir.

22 (f) Well #6 - 640 gpm: Supplies Babbitt and the North and Central Magazine  
23 areas. The water is pumped into a 1,000,000 gallon (3 af) storage tank for use on demand.

24 (g) Well #7 - 250 gpm: Located between tank 5 and building 108-20.

25 (h) Well #8 - (total available capacity): Located on the west side of tank 6.

26 (i) Well #9 - (total available capacity): Located on the southwest side of Babbitt  
27 Housing Area.

28 51. In addition to the above-listed federal reserved water rights for the Hawthorne

1 Reservation, the United States has numerous appropriative water rights some of which were acquired  
2 when land was purchased by the United States of America and which subsequently became a part of  
3 the Hawthorne Reservation.

4 52. In the event of a mobilization the increase in Hawthorne activities will rise to an as yet  
5 unknown amount, but at a minimum of approximately 80% (European crisis) to 150% (Pacific crisis)  
6 of current usage along with an attendant need for water.

7  
8 NINTH CLAIM FOR RELIEF

9 UNITED STATES DEPARTMENT OF AGRICULTURE

10 TOIYABE NATIONAL FOREST

11 53. Paragraphs 1-52 are incorporated herein as if fully set forth in this paragraph 53.

12 54. The Toiyabe National Forest extends from the crest of the Sierra Nevada range in  
13 California east to the Cambridge Hills in western Nevada. The Forest was created from several forest  
14 reserves which were withdrawn from the public domain beginning in 1907.

15 55. The Toiyabe National Forest is managed under several acts of Congress (hereinafter  
16 "Acts") beginning with the Organic Administration Act of 1897, ch. 2, 30 Stat. 34, 16 U.S.C. § 475  
17 (1988) which provides that the purposes of the national forests are, inter alia, to "improve and protect  
18 the forest within the boundaries, or for the purpose of securing favorable conditions of water flows,  
19 and to furnish a continuous supply of timber for the use and necessities of citizens of the United  
20 States. . . ." The national forests are also managed under the principles of the Multiple-Use  
21 Sustained-Yield Act of 1960, Pub. L. No. 86-517, §§ 1 - 4, 74 Stat. 215, 16 U.S.C. §§ 528-531 (1988)  
22 (hereinafter "MUSYA"), which provides that the national forests shall be administered for outdoor  
23 recreation, range, timber, watershed and wildlife and fish purposes. Portions of the Toiyabe National  
24 Forest are administered pursuant to the Wilderness Act (September 3, 1964) Pub. L. No. 88-577, 78  
25 Stat. 890, as amended, 16 U.S.C. §§ 1131-1136 (1988). Additionally, the National Forests and Public  
26 Lands of Nevada Enhancement Act of 1988, Pub. L. No. 100-550, § 5, 102 Stat. 2749, 16 U.S.C. §  
27 460ccc-3 (1988) which transferred lands between the Forest Service and the Bureau of Land  
28 Management, "expressly reserves the minimum quantity of water necessary to achieve the primary

1 purposes for which the lands transferred . . . are withdrawn."

2 56. The United States is entitled to use the waters from the Walker River, its tributaries, and  
3 all other waters located in, on, under, or otherwise appurtenant to the lands comprising the Toiyabe  
4 National Forest in the amounts of water necessary to fulfill all purposes for which the reservation was  
5 created as recognized under federal or state law. Such lands are entitled to a federally reserved water  
6 right with a date of priority as of the date said lands were withdrawn and reserved from the public  
7 domain.

8 57. In connection with paragraph 56, supra, the United States is entitled to an instream flow  
9 reserved water rights in the amounts necessary to fulfill the purposes for which the Toiyabe National  
10 Forest was established under the Organic Administration Act of 1897. This includes, but is not  
11 necessarily limited to, reserved water rights in amounts necessary for the maintenance of the entire  
12 reach of each stream channel and all its named and unnamed tributaries lying within the Toiyabe  
13 National Forest.

14 58. The United States also has and is also entitled to both reserved water rights pursuant to  
15 the Organic Administration Act and the above noted subsequent Acts as well as water rights under  
16 state law, both surface and underground water, both consumptive and non-consumptive, which  
17 include but are not necessarily limited to, all aquifers, springs, seeps, rivers, streams, lakes and waters  
18 otherwise appurtenant to the Toiyabe National Forest in the amounts necessary to fulfill all present  
19 and future administrative purposes on the Toiyabe National Forest as stated in the Acts. The use of  
20 these waters include or will include, but is not necessarily limited to: fire management activities,  
21 erosion control, revegetation, irrigation, domestic, stockwatering and timber production, which  
22 includes but is not limited to, reforestation, road construction and maintenance and silvicultural  
23 treatments.

24 59. The United States also has and is also entitled to reserved water rights pursuant to the  
25 Organic Administration Act and its successor Acts in both surface and groundwater which includes,  
26 but is not necessarily limited to, all aquifers, springs, seeps, rivers, streams, lakes and waters  
27 otherwise appurtenant to Toiyabe National Forest in the amounts necessary for fighting fires in said  
28 National Forest.

60. The United States also has and is also entitled to instream flow water rights in the Toiyabe National Forest within the boundaries of the State of Nevada in the amounts of water necessary to fulfill the purpose of providing habitat for fish and wildlife and for recreational opportunities for the public. To the extent these instream flow claims are not available under state law, the United States has federal reserved water rights for the purposes set forth in the MUSYA, *supra*. In such instance, the priority date is the date of the enactment of the MUSYA, June 12, 1960.

61. The United States also has and is also entitled to riparian rights in the Toiyabe National Forest within the boundaries of the State of California for riparian Forest Service land in the amounts of water necessary to fulfill the purpose of providing watershed management, habitat for fish and wildlife and for recreational opportunities for the public. The priority date for these riparian water rights is the date the United States took title from Mexico under the Treaty of Guadalupe Hidalgo; February 2, 1848. To the extent the above instream flow claims are not available under state law, the United States has federal reserved water rights for the purposes set forth in the MUSYA, *supra*, with a priority date of June 12, 1960.

62. The United States also has and is also entitled to certain appropriative water rights, including rights that either have been permitted and certificated pursuant to Nevada or California state law, or have applications pending for appropriation before the Nevada State Engineer and before the California Water Resources Control Board. In addition, the United States of America has riparian rights pursuant to California state law.

#### TENTH CLAIM FOR RELIEF

#### UNITED STATES MARINE CORPS

#### MOUNTAIN WARFARE TRAINING CENTER

63. Paragraphs 1-62 are incorporated herein as if fully set forth in this paragraph 63.

64. The United States Marine Corps, Department of the Navy (Marine Corps) operates a training base known as the Mountain Warfare Training Center (hereinafter "MWTC") within the Toiyabe National Forest. The Marine Corps presence in this National Forest dates back to 1951. Pursuant to an agreement with the Forest Service, the Marine Corps uses approximately 45,635 acres of the National Forest for cold weather and mountaineering training and evaluation of prototype

1 equipment. This training area is the only site available to the Marine Corps for these activities. To  
2 support these training operations, the Marine Corps uses a 405-acre tract for a Base Camp, located at  
3 the confluence of Silver Creek and the West Walker River. Additionally, the Navy owns a family  
4 housing area 25 miles from the Base Camp.

5 65. The United States is entitled to use waters from the Walker River, its tributaries, and all  
6 other waters located in, on, under, or otherwise appurtenant to the lands of the MWTC in the amounts  
7 necessary to fulfill all purposes recognized under the federal and state law. Such lands are entitled to  
8 a priority date as of the date of the reservation.

9 66. The Marine Corps is diverting and is also entitled to certain waters pursuant to federal  
10 reserved, riparian, overlying, and appropriative water rights, including surface and groundwater  
11 sources, which are identified below:

12 a. Silver Creek:

13 Water needs of the Base Camp are supplied by surface diversions from Silver Creek and two  
14 groundwater wells, noted below. The Marine Corps uses water from Silver Creek based upon a pro-  
15 existing Forest Service claim and statement of diversion (USFS No. 9839), which is based on a  
16 riparian right, and has a priority date of 1951. Silver Creek surface water, up to 150 gpm, is diverted  
17 via a spillway located upstream of the Base Camp.

18 Silver Creek surface water is used for purposes that include, but are not limited to, training,  
19 domestic, industrial, fire protection, irrigation, construction, base hygiene, dust control, equipment  
20 and road washing, and future regulatory requirements for fire sprinkler system cross-connection  
21 control.

22 b. Base Camp Wells:

23 The Marine Corps' Base Camp domestic water demand is served by two groundwater wells,  
24 which are located in the Lower Base Camp up-gradient from all the buildings. Water is diverted from  
25 these wells up to the following amount:

26 Well No. 1 - 125 GPM.

27 Well No. 2 - 127 GPM.

28 An application for a Base Camp permit for both wells was submitted on May 26, 1993 to the

1 State of California, Department of Health Services.

2 c. Family Housing, Coleville, CA:

3 The Marine Corps also operates a family housing area on a tract approximately 40 acres in  
4 size and about 25 miles from the Base Camp. The facility, owned in fee by the U.S. Navy, is located  
5 within the West Walker River watershed on the eastern slope of the Sierra Nevada Mountains  
6 between the towns of Topaz, Nevada and Coleville, California. More specifically, the housing  
7 facility is located on the west side of highway 395, approximately 1.5 miles north of Coleville and  
8 about a quarter mile from the river. The housing area's domestic water demand, including domestic  
9 irrigation (lawn-watering of family gardens), is served by five wells. Water is diverted from these  
10 wells up to the following amount:

11 Well No. 1 - 21 GPM

12 Well No. 2 - 27 GPM

13 Well No. 3 - 14 GPM

14 Well No. 4 - 21 GPM

15 Well No. 5 - 200 GPM

16 The State of California, Department of Health Services, granted a permit for Well Nos. 1 - 4  
17 on December 15, 1986, as water permit # 86-048, and amended that permit on February 11, 1994, to  
18 add Well No. 5 to the system.

19  
20 ELEVENTH CLAIM FOR RELIEF

21 BUREAU OF LAND MANAGEMENT

22 67. Paragraphs 1-66 are incorporated herein as if fully set forth in this paragraph 67.

23 68. Certain lands were reserved from the public domain to establish Public Water Reserves  
24 No. 29, No. 70, and No. 107 (hereinafter "PWR"). These reservations were made pursuant to  
25 Executive Orders dated June 1, 1915, March 8, 1920 and April 17, 1926, respectively, and are  
26 administered by the Department of the Interior through the Bureau of Land Management ("BLM"),  
27 except as noted below.

28 69. The United States is entitled to the use of all of the waters located in, on, under, or



otherwise appurtenant to the lands of the PWRs necessary to fulfill all of the purposes recognized under federal or state law. Such lands, except as noted below, are entitled to a federal reserved water right with a date of priority as of the date of each individual PWR.

70. The United States has and is also entitled to reserved water rights for public springs and water holes in amounts necessary to fulfill the purposes of the PWRs described in paragraph 78. above. The priority dates are the dates the lands were withdrawn from the public domain. These reserved rights include, but are not limited to, the following:

<u>Executive Order 6/1/15 - PWR #29</u>	<u>Reserved Acres</u>	<u>Flow</u>
T. 9 N., R. 28 E., Sec. 17, SW1/4NW1/4, NW1/4SW1/4	80 ac.	1 GPM

T. 11 N., R. 28 E., Sec. 7, (unsurveyed)	125.60 ac.	1 GPM
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<u>Executive Order 3/8/20 - PWR #70</u>	<u>Reserved Acres</u>	<u>Flow</u>
T. 5 N., R. 28 E., Sec. 11, SW1/4NE1/4, SE1/4NW1/4	40 ac.	All
T. 5 N., R. 28 E., Sec. 30, N1/2 of lot 5	approx. 25 ac.	All

The above two PWRs are now located on land administered by the U.S. Forest Service pursuant to the National Forests and Public Lands of Nevada Enhancement Act of 1988, Pub. L. No. 100-550, § 5, 102Stat. 2749, 16 U.S.C. § 460ccc-3 (1988).

<u>Executive Order 4/17/26 - PWR #107</u>	<u>Reserved Acres</u>	<u>Flow</u>
T. 7 N., R. 28 E., Sec. 10, E1/2SE1/4	80 ac.	5 GPM
T. 7 N., R. 28 E., Sec. 11, NW1/4SW1/4	40 ac.	5 GPM
T. 7 N., R. 28 E., Sec. 15, N1/2NE1/4, SW1/4NE1/4, SE1/4NW1/4, NE1/4SW1/4, S1/2SW1/4	280 ac.	3 GPM
T. 7 N., R. 28 E., Sec. 21, NE1/4	160 ac.	2 GPM
T. 7 N., R. 28 E., Sec. 22, NW1/4NW1/4	40 ac.	2 GPM
T. 9 N., R. 28 E., Sec. 20, N1/2NE1/4	80 ac.	1 GPM

71. The United States has acquired and is therefore entitled to certain water rights which were previously adjudicated and decreed in the C-125 Walker River Decree. These lands were acquired by the United States and are identified as follows:

Legal Description

Water Right Acres

SW1/4SE1/4, Sec. 14; NW1/4  
NE1/4, SW1/4 NE1/4, NW1/4  
SE1/4, Sec. 23, T 3 N, R 25 E  
(C-125 Assessment, Roll # 63, Card # 105750)

160.00

Part of Claim #210  
SE1/4NE1/4, E1/2SE1/4, NE1/4  
SW1/4, S1/2 SW1/4, Section 23;  
NE1/4NE1/4, NW1/4NW1/4, Sec.  
26; SW1/4SW1/4, Section 20; NW1/4  
NW1/4, Section 29, T 3 N, R 25 E.  
(C-125 Assessment, Roll # 64, Card # 105751)

400.00

72. The United States also has and is also entitled to riparian water rights under California state law for riparian lands managed by the BLM. The priority date for lands which the United States has held continuously since taking title from Mexico under the Treaty of Guadalupe Hidalgo is February 2, 1848. In the case of acquired land, the priority date is the date the land was patented out of the public domain. The water is used for the purpose of sustaining the existing riparian vegetation and providing habitat for fish and wildlife. The above rights are appurtenant to the following stream reaches:

Virginia Creek and tributaries

Public Land

T 3 N., R 25 E.: Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15

T 4 N, R 25 E: Sections 35, 34, 27, 26, 25

Acquired land: T 3 N, R 25 E: Sections 21, 22, 23, 24, 25, 26, 27, 34, 35

Clear Water Creek and tributaries

Acquired Land

T 3 N, R 25 E: Section 12; T 4 N, R 26 E: Section 33

T 3 N, R 26 E: Sections 5, 6, 7, 18

Public Land

T 3 N, R 25 E: Section 1, 12

1 T 4 N, R 25 E: Section 24

2 T 4 N, R 26 E: Sections 31, 32, 34, 35, 30, 28, 27, 10, 14, 16, 19, 21, 22, 23

3 Aurora Canyon and tributaries - Rock Creek and other unnamed creeks

4 Public Land

5 T 4 N, R 25 E: Sections 1, 12, 10, 11

6 T 4 N, R 26 E: Sections 4, 3

7 T 5 N, R 25 E: Sections 35, 27, 26, 25, 24, 23, 14, 15, 12, 11, 10, 2

8 T 5 N, R 26 E: Sections 31, 32, 33, 29, 22, 21, 20, 19, 18, 17, 7, 8

9 Rough Creek and tributaries

10 Public Land

11 T 4 N, R 26 E: Sections 1, 2, 3

12 T 4 N, R 27 E: Section 6

13 T 5 N, R 26 E: Sections 35, 34, 26, 25, 24, 23, 22, 12, 13, 14

14 T 5 N, R 26 E: Sections 12, 11, 10, 9, 1, 2, 3, 4

15 T 5 N, R 27 E: Sections 31, 32, 33, 30, 29, 28, 19, 20, 18, 17, 7, 8, 9, 6

16 T 6 N, R 26 E: Sections 32, 33, 34, 35, 36

17 Including Portions of Bodie, Matastra and Rough Creeks that originate in California and flow into Nevada.

18 Bodie Creek tributaries

19 T 4 N, R 26 E: Section 12

20 T 4 N, R 27 E: Sections 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 15, 16 and 17

21 T 5 N, R 27 E: Sections 25, 26 and 35.

22 Green Creek

23 T 4 N, R 25 E: Section 33

24 Topaz Lake Area

25 Slinkard Creek and tributaries

26 T 9 N, R 22 E: Sections 4, 5, 6, 7, 8, 9, 10, 11, 14, 18, 19, 22, 23, 26 and 30

27 Mail Creek and tributaries

28 T 8 N, R 23 E: Sections 29, 31 and 32

T 8 N, R 22 E: Sections 1, 12, 14, 23 and 26.

73. The United States is also entitled to certain appropriative water rights, including rights

1 that either have been permitted and certificated pursuant to Nevada or California state law, or have  
2 applications pending for appropriation before the Nevada State Engineer and before the California  
3 Water Resources Control Board. In addition, the United States has riparian rights pursuant to  
4 California state law.

5  
6 WHEREFORE, the United States of America, in its first amended counterclaim on its own  
7 behalf and for the use and benefit of the Walker River Paiute Tribe, the Yerington Paiute Tribe, the  
8 Bridgeport Paiute Indian Colony and individual Indians owning allotments in the Walker River Basin  
9 prays that this court enter judgment and decree as follows:

10 (1) Quieting the title of the United States to the use in proper priority of the above-  
11 claimed waters rights on its own behalf and for the use and benefit of the Walker River Paiute Tribe,  
12 the Yerington Paiute Tribe, the Bridgeport Paiute Indian Colony and individual Indians owning  
13 allotments in the Walker River Basin.

14 (2) Declaring that the United States, on its own behalf and for the use and benefit of  
15 the Walker River Paiute Tribe, the Yerington Paiute Tribe, the Bridgeport Paiute Indian Colony and  
16 individual Indians owning allotments in the Walker River Basin, are entitled to the exclusive use,  
17 occupancy and right to the quiet enjoyment of such water rights in their proper priority.

18 (3) Declaring that the defendants and counterdefendants have no right, title or other  
19 interest in or to the use of such water rights.

20 (4) Preliminarily and permanently enjoining the defendants and counterdefendants  
21 from asserting any adverse rights, title or other interest in or to such water rights.

22 (5) Grant such other and further relief as the Court deems proper.

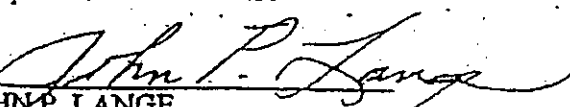
23 DONE this day of 30<sup>th</sup> day of July, 1997.

24  
25 Respectfully submitted,

26 LOIS SCHIFFER

27 Assistant Attorney General  
28 United States Department of Justice  
Environment & Natural Resources Div.

1  
2 KATHRYN E. LANDRETH  
3 United States Attorney  
4 100 West Liberty Street, Suite 600  
5 Reno, Nevada 89501  
6 Telephone: 702 784-5439

7 By   
8 JOHN P. LANGE  
9 United States Department of Justice  
10 Environment & Natural Resources Division  
11 Indian Resources Section  
12 999 18th Street, Suite 945  
13 Denver, Colorado 80202  
14 Telephone: 303 312-7312

15  
16 Hank Meshorer  
17 Special Litigation Counsel  
18 United States Department of Justice  
19 Environment & Natural Resources Division P. O. Box 7397  
20 Ben Franklin Station  
21 Washington, D.C. 20044-7397  
22 Telephone: 202 616-9643  
23  
24  
25  
26  
27  
28

CERTIFICATE OF SERVICE

I hereby certify that I have this 30th day of July, 1997, served a true copy of the foregoing **FIRST AMENDED COUNTERCLAIM OF THE UNITED STATES OF AMERICA**, by placing same in the U. S. mails, postage prepaid, addressed as follows:

Shirley A. Smith, Esq.  
Asst. U. S. Attorney  
100 W. Liberty St., Suite 600  
Reno, NV 89501-1930

Western Nevada Agency  
Bureau of Indian Affairs  
1677 Hot Springs Road  
Carson City, CA 89706

Larry C. Reynolds, Esq.  
Deputy Attorney General  
State Engineer's Office  
123 West Nye Lane  
Carson City, NV 89710

R. Michael Turnipseed, P.E.  
Division of Water Resources  
State of Nevada  
123 West Nye Lane  
Carson City, NV 89710

Jim Weishaupt  
Walker River Irrigation District  
P. O. Box 820  
Yerington, NV 89447

Scott McElroy  
Greene, Meyer & McElroy  
1007 Pearl Street, No. 220  
Boulder, CO 80302

James T. Markle  
State Water Res. Control Bd.  
P. O. Box 100  
Sacramento, CA 94814

John Davis, Esq.  
Post Office Box 1646  
Tonopah, NV 89049

John Kramer  
Department of Water Resources  
1416 Ninth Street  
Sacramento, CA 94814

Rodger Johnson  
Water Resources Control Bd.  
State of California  
Post Office Box 2000  
Sacramento, CA 95810

Kelly R. Chase  
Post Office Box 2800  
Minden, NV 89423

Roger Bezayiff  
Chief Dep. Water Commissioner  
U. S. Bd. Water Commissioners  
Post Office Box 853  
Yerington, NV 89447

Ross E. De Lipkau  
P. O. Box 2790  
Reno, NV 89505

Linda A. Bowman, Esq.  
Bowman & Robinson  
499 West Plumb Lane, Suite 4  
Reno, NV 89509

Gary Stone  
290 South Arlington  
Reno, NV 90510

Mary Hackenbracht, Esq.  
Department of Justice  
State of California  
2101 Webster St., 12th Floor  
Oakland, CA 94612-3049

Gordon H. DePaoli, Esq.  
Woodburn, Wedge & Jeppson  
P. O. Box 2311  
Reno, NV 89505

Richard R. Greenfield, Esq.  
Field Solicitor's Office  
Department of the Interior  
Two N. Central Ave., Suite 1130  
Phoenix, AZ 85004-2383

Marta Adams, Esq.  
Deputy Attorney General  
State of Nevada  
Division of Water Resources  
100 N. Carson Street  
Carson City, Nevada 89701-4717



1 George N. Benesch, Esq.  
2 210 Marsh Avenue, Suite 105  
3 Post Office Box 3498  
4 Reno, Nevada 89509

5 Matthew R. Campbell, Esq.  
6 David E. Moser, Esq.  
7 McCutchen, Doyle, Brown & Enerson  
8 3 Embarcadero Center  
9 San Francisco, CA 94111

10 Donald B. Gilbert, Esq.  
11 DeCuir & Somach, P.C.  
12 400 Capitol Mall, Suite 1900  
13 Sacramento, California 95814-4407

14 Treva J. Hearne, Esq.  
15 Zeh, Polaha, Spoo & Hearne  
16 450 Marsh Avenue 575 FOREST, SUITE 200  
17 Reno, Nevada 89509

18 Robert C. Anderson and Timothy Lukas  
19 Hale, Lane, Peck, Dennison, Howard  
20 Anderson & Pearl  
21 Post Office Box 3237  
22 Reno, NV 89505  
23  
24  
25  
26  
27  
28

Deirdre Hills

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

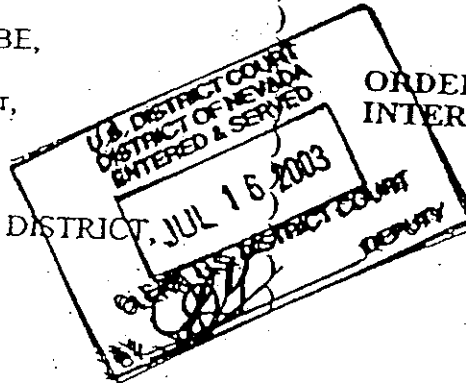
UNITED STATES OF AMERICA,  
Plaintiff,

WALKER RIVER PAIUTE TRIBE,  
Plaintiff-Intervenor,

vs.

WALKER RIVER IRRIGATION DISTRICT,  
a corporation, et al.,

FILED  
JULY 9, 2003  
TH 3:03  
LORNE S. WILSON  
CLERK  
BY [Signature]  
DEPUTY  
IN EQUITY NO. C-125  
SUBFILE NO. C-125-B



ORDER - DISCLAIMER OF  
INTEREST

The following background information is provided to aid in understanding the reasons for and what is required by this Order:

1. The Court has ordered that certain persons and entities be included as parties in this action because they own water rights within one or more of the nine categories set forth in Paragraph 3 of the Court's April 18, 2000 Case Management Order.

2. It is possible that some of the specific persons or entities who are served with a Waiver of Service of Notice in Lieu of Summons, Notice of Lawsuit, or a Notice in Lieu of Summons do not belong in this action, because, for example, they may have sold or otherwise conveyed the ownership of all water rights subject to this action prior to being served.

3. A change in ownership of a water right can occur in a number of ways and for a variety of reasons. Often a change in ownership of a water right occurs when ownership of the land on which the water is used changes. A change in ownership may involve a sale, a gift, a death or even a divorce. It may also involve estate or business planning decisions, such as conveyance to an inter vivos trust or a limited liability company. Frequently, changes in ownership are accomplished by a deed. However, in an estate or divorce proceeding, they may be accomplished by an order of a court. These examples are not an exclusive list of all of the

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1 ways in which a change in ownership may occur.

2           4. It is important that the Court and the Plaintiffs be notified if a person or entity  
3 who receives service by mail or personal service does not, in fact, have any ownership interest  
4 in a water right in any of the nine categories set forth in Paragraph 3 of the Court's April 18,  
5 2000 Case Management Order. In addition, that person or entity need not be burdened with  
6 this litigation and, if there was a change in ownership, a new party may need to be added to the  
7 action. Before any such person may be omitted from this action, certain information and  
8 documents will have to be provided to the Plaintiffs and the Court.

9           Based upon the foregoing, it is hereby ORDERED as follows:

10           1. If any person or entity receiving service by mail or personal service has no  
11 interest in any water right within any of the nine categories set forth in Paragraph 3 of the *Case*  
12 *Management Order* (Apr. 18, 2000)<sup>1/</sup>, that person or entity shall notify the Court and the  
13 \_\_\_\_\_

14 <sup>2/</sup> You should review the *Case Management Order* and *First Amended Counterclaims* filed  
15 by the United States and by the Walker River Paiute Tribe, which are included in the materials  
16 served upon you. For convenience, the nine categories of persons and entities that the Court  
has ordered to be served and named are listed here:

- 17           1. Category 3.a.: The successors in interest to all water rights holders under the Decree  
18 (April 14, 1936), modified, Order of Entry of Amended Final Decree to Conform to  
Writ of Mandate, Etc. (April 24, 1940) ("Decree").
- 19           2. Category 3.b.: All holders of surface water rights under the laws of the States of  
20 Nevada and California in the Walker River Basin who are not presently parties to this  
21 adjudication.
- 22           3. Category 3.c.: All holders of permits or certificates to pump groundwater issued by  
23 the State of Nevada and domestic users of groundwater within Sub Basins 107 (Smith  
Valley), 108 (Mason Valley), 110A (Schurz Subarea of the Walker Lake Valley), and  
24 110B (Walker Lake Subarea of the Walker Lake Valley).
- 25           4. Category 3.d.: All holders of permits or certificates to pump groundwater issued by  
26 the State of Nevada within Sub Basins 106 (Antelope Valley), 109 (East Walker), and  
110C (Whiskey Flat-Hawthorne Subarea of Walker Lake Groundwater Basin).
- 27           5. Category 3.e.: All users' of groundwater for irrigation in California in the Walker  
28 River Basin.

1 United States in writing of that fact.

2 2. If such person or entity sold or otherwise conveyed ownership of all of the water  
3 rights that the person or entity once owned before they were served or otherwise brought into  
4 this action, in addition to disclaiming any interest in this action, they shall include a notice  
5 providing the following information:

- 6 A. The name and address of the person or entity who sold or otherwise  
7 conveyed ownership;  
8 B. The name and address of each person or entity who acquired ownership;  
9 and  
10 C. A copy of the deed, court order or other document by which the change  
in ownership was accomplished.

11 3. The disclaimer and notice shall be sent to the Court and counsel for the United  
12 States, addressed as follows:

13 Linda Lea Sharer, Chief Deputy Clerk  
14 United States District Court for the District of Nevada  
400 South Virginia Street, Suite 301  
Reno, NV 895501

15 Susan L. Schneider  
16 United States Department of Justice  
P.O. Box 756  
17 Littleton, CO 80160

18 4. The form and substance of the disclaimer and notice shall substantially conform  
19 to the form attached to this Order as Exhibit A.

20 5. Following their receipt from any person or entity disclaiming any interest in any

21  
22 6. Category 3.f.: All holders of "vested rights" to the use of groundwater under the laws  
23 of the State of Nevada within the Walker River Basin.

24 7. Category 3.g.: All municipal providers in Nevada within the Walker River Basin  
who currently use groundwater.

25 8. Category 3.h.: All municipal providers in California within the Walker River Basin  
26 who currently use groundwater.

27 9. Category 3.i.: All industrial users in Nevada within the Walker River Basin who  
28 currently use groundwater.

1 of the water rights at issue in this case of a Waiver of Service of Notice in Lieu of Summons  
2 and any Disclaimers of Interest and accompanying information and documents sought by this  
3 Order, Plaintiffs will review the materials received and, if appropriate, seek the Court's  
4 concurrence in omitting that person or entity filing such materials from this case.

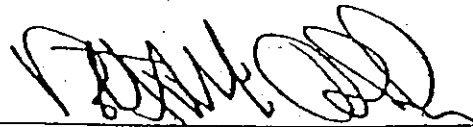
5 6. If Plaintiffs do not receive a Waiver of Service of Notice in Lieu of Summons  
6 and must personally serve a person or entity that subsequently files a Disclaimer of Interest  
7 pursuant to this Order, Plaintiffs will also review the materials received and, if appropriate,  
8 seek the Court's concurrence in omitting the person or entity from this case, but that person or  
9 entity may be subject to paying the costs related to formal personal service on them.

10 7. Despite the above provisions, any person or entity who files a Disclaimer of  
11 Interest in this matter is ultimately responsible for the accuracy of this filing. Consequently,  
12 any person or entity who files a Disclaimer of Interest, but, in fact, has water rights subject to  
13 this litigation, shall nevertheless be bound by the results of this litigation.

14 8. Any person or entity subject to service under the Federal Rules of Civil  
15 Procedure who receives notice of this action in the manner provided by Federal Rule of Civil  
16 Procedure 4(d) remains subject to the duty to avoid unnecessary costs of serving the summons,  
17 even if that person or entity ultimately disclaims any ownership interest in any of the water  
18 rights described by Paragraph 3 of the Court's April 18, 2000 Case Management Order.

19 IT IS SO ORDERED:

20 Dated: July 9, 2003.

21  
22   
23 The Honorable Robert A. McQuaid, Jr.  
24 United States District Court Magistrate Judge  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA, )

Plaintiff, ) In Equity No. C-125-ECR

) Subfile No. C-125-B

WALKER RIVER PAIUTE TRIBE, )

Plaintiff-Intervenor, )

v. )

WALKER RIVER IRRIGATION )

DISTRICT, )

a corporation, et al., )

Defendants. )

**DISCLAIMER OF INTEREST IN  
WATER RIGHTS AND NOTICE OF  
RELATED INFORMATION AND  
DOCUMENTATION SUPPORTING  
DISCLAIMER**

The undersigned counter-defendant in the above action hereby notifies the Court and the United States that the undersigned (or the entity on whose behalf the undersigned is acting) has no interest in any water right within the categories set forth in Paragraph 3 of the *Case Management Order* (Apr. 18, 2000) and, therefore, disclaims all interest in this action.

This disclaimer and notice shall be sent to the following two persons:

Linda Lea Sharer, Chief Deputy Clerk  
United States District Court for the District of Nevada  
400 South Virginia Street, Suite 301  
Reno, NV 89501

And

Susan L. Schneider  
United States Department of Justice  
P.O. Box 756  
Littleton, CO 80160

In addition, because the undersigned sold or otherwise conveyed ownership of all of the



1 water rights that the undersigned (or the entity on whose behalf the undersigned is acting) once  
2 owned before the undersigned was served with a Waiver of Service of Notice in Lieu of  
3 Summons or by a Notice in Lieu of Summons, the undersigned provides the following  
4 additional information:

5 1. The name and address of the party or parties who sold or otherwise conveyed  
6 ownership:

7 Name(s):

8  
9 Street or P.O. Box:

10  
11 Town or City:

12  
13 State:

14  
15 Zip Code:

16 2. The name and address of each person or entity who acquired ownership

17  
18 Name(s):

19  
20  
21 Street or P.O. Box:

22  
23 Town or City:

24  
25 State:

26  
27 Zip Code:

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3 3. Attached to or included with this notice is a copy of the (check appropriate  
4 box(es)):

- 5  
6 ☐ Deed  
7 ☐ Court Order  
8 ☐ Other Document.  
9

10 by which the change in ownership was accomplished.

11 4. The undersigned acknowledges that any person or entity who files a Disclaimer  
12 of Interest in this matter is ultimately responsible for the accuracy of this filing. Consequently,  
13 the undersigned acknowledges that any person or entity who files a Disclaimer of Interest, but,  
14 in fact, has water rights subject to this litigation, shall nevertheless be bound by the results of  
15 this litigation.

16  
17 Executed this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_.

18  
19  
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21  
22 [signature of counter-defendant]

23  
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25  
26 [name of counter-defendant]  
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[name, if applicable, of person acting on  
behalf of counter-defendant]

[signature, if applicable, of person acting on  
behalf of Counter-Defendant]

[address]

[telephone number]

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

FILED  
53 JUL -9 PM 3:03

UNITED STATES OF AMERICA,

Plaintiff,

WALKER RIVER PAIUTE TRIBE,

Plaintiff-Intervenor,

v.

WALKER RIVER IRRIGATION DISTRICT,  
a corporation, et al.,

Defendants.

IN EQUITY NO. CV-125-ECR  
SUBFILE NO. C-125-B

ORDER REGARDING  
CHANGES IN OWNERSHIP  
OF WATER RIGHTS

U.S. DISTRICT COURT  
DISTRICT OF NEVADA  
ENTERED & SERVED  
JUL 16 2003

CLERK U.S. DISTRICT COURT  
BY

The following background information is provided to aid in understanding the reasons for and what is required by this Order:

1. The Court has ordered that certain persons and entities be included as parties to this action because they own water rights within one or more of the nine categories set forth in Paragraph 3 of the Court's *Case Management Order* (Apr. 18, 2000).

2. During the course of this action, it is possible that a party will sell or otherwise convey ownership of all or a portion of the water rights which that party owned when brought into this action by a Waiver of Service of Notice in Lieu of Summons or by service of a Notice in Lieu of Summons.

3. A change in ownership of a water right or a portion of a water right can occur in a number of ways and for a variety of reasons. Often a change in ownership of a water right occurs when ownership of some or all of the land on which the water is used changes. A change in ownership may involve a sale, a gift, a death or even a divorce. It may also involve estate or business planning decisions such as conveyance to an inter vivos trust or a limited liability company. Frequently changes in ownership are accomplished by a deed. However, in an estate or divorce proceeding they may be accomplished by an order of a court. These examples are not

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1 a exclusive list of all of the ways in which a change in ownership may occur.

2 4. It is important that the Court and the Plaintiffs be notified of changes in the  
3 ownership of water rights while this action is pending because among other things, a change in  
4 ownership may require that a new party be included in the action, or that a present party be  
5 dismissed or both.

6 Based upon the foregoing it is hereby ORDERED as follows:

7 1. If a party to this action sells or otherwise conveys ownership of all or a portion of  
8 any water right within any of the nine categories set forth in Paragraph 3 of the *Case*  
9 *Management Order* (Apr. 18, 2000)<sup>1/</sup>, that party shall, within sixty days after any such change in

10  
11 1/ You should review the *Case Management Order* and *First Amended Counterclaims* filed by  
12 the United States and by the Walker River Paiute Tribe, which are included in the materials served  
13 upon you. For convenience, the nine categories of persons and entities that the Court has ordered  
to be served and named are listed here:

- 14 1. Category 3.a.: The successors in interest to all water rights holders under the Decree  
15 (April 14, 1936), modified, Order of Entry of Amended Final Decree to Conform to  
Writ of Mandate, Etc. (April 24, 1940) ("Decree").
- 16 2. Category 3.b.: All holders of surface water rights under the laws of the States of  
17 Nevada and California in the Walker River Basin who are not presently parties to this  
adjudication.
- 18 3. Category 3.c.: All holders of permits or certificates to pump groundwater issued by  
19 the State of Nevada and domestic users of groundwater within Sub Basins 107  
(Smith Valley), 108 (Mason Valley), 110A (Schurz Subarea of the Walker Lake  
20 Valley, and 110B (Walker Lake Subarea of the Walker Lake Valley).
- 21 4. Category 3.d.: All holders of permits or certificates to pump groundwater issued by  
the State of Nevada within Sub Basins 106 (Antelope Valley), and 109 (East  
22 Walker), and 110C (Whiskey Flat-Hawthorne Subarea of Walker Lake Groundwater  
Basin.
- 23 5. Category 3.e.: All users of groundwater for irrigation in California in the Walker  
River Basin.
- 24 6. Category 3.f.: All holders of "vested rights" to the use of groundwater under the laws  
of the State of Nevada within the Walker River Basin.
- 25 7. Category 3.g.: All municipal providers in Nevada within the Walker River Basin who  
currently use groundwater.
- 26 8. Category 3.h.: All municipal providers in California within the Walker River Basin  
who currently use groundwater.
- 27 9. Category 3.i.: All industrial users in Nevada within the Walker River Basin who  
currently use groundwater.

ownership, notify the Court and the United States of the change in ownership.

2. The notice required by this Order shall provide the following information:

- A. The name and address of the party who sold or otherwise conveyed ownership;
- B. The name and address of each person or entity who acquired ownership; and
- C. A copy of the deed, court order or other document by which the change in ownership was accomplished.

3. The notice shall be sent to the Court and counsel for the United States addressed as follows:

Linda Lea Sharer, Chief Deputy Clerk  
United States District Court for the District of Nevada  
400 South Virginia Street, Suite 301  
Reno, NV 89501

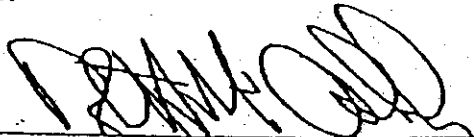
Susan L. Schneider  
United States Department of Justice  
P.O. Box 756  
Littleton, CO 80160

4. The form and substance of the notice shall substantially conform to the form of notice attached to this order as Exhibit A.

5. Any person or entity who files a Notice of Change of Ownership of Water Right using the attached form or provides information for this purpose by other means is ultimately responsible for the accuracy of this filing. Consequently, any person or entity who files such a notice regarding water rights subject to this litigation, but retains such water rights, shall nevertheless be bound by the results of this litigation.

IT IS SO ORDERED:

Dated: July 9, 2003.

  
The Honorable Robert A. McQuaid, Jr.  
United States District Court Magistrate Judge



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA.

Plaintiff,

In Equity No. C-125-ECR  
Subfile No. C-125-B

WALKER RIVER PAIUTE TRIBE.

Plaintiff-Intervenor,

# NOTICE OF CHANGE OF OWNERSHIP OF WATER RIGHT

**y.**

WALKER RIVER IRRIGATION DISTRICT,  
a corporation, et al.,

Defendants.

The undersigned counter-defendant in the above action hereby notifies the Court and the United States that the undersigned (or the entity on whose behalf the undersigned is acting) has sold or otherwise conveyed ownership of all or a portion of a water right within one or more of the categories set forth in Paragraph 3 of the Case Management Order and provides the following information:

1. The name and address of the party or parties who sold or otherwise conveyed ownership:

Name(s)

Street or P.O. Box

2 Town or City State ZipCode

3 2. The name and address of each person or entity who acquired ownership

4 Name(s)

5 Street or P.O. Box

6 Town or City State ZipCode

7 3. Attached to or included with this notice is a copy of the (check appropriate  
8 box(es)):

- 9 ☐ Deed
- 10 ☐ Court Order
- 11 ☐ Other Document.

12 by which the change in ownership was accomplished.

13 4. The undersigned acknowledges that any person or entity who files a Notice of  
14 Change of Ownership of Water Right using this form is ultimately responsible for the accuracy  
15 of this filing. Consequently, the undersigned acknowledges that any person or entity who files  
16

17

18

19 \*

20 This notice shall be sent to the following two persons:

21 Linda Lea Sharer, Chief Deputy Clerk  
22 United States District Court for the District of Nevada  
23 400 South Virginia Street, Suite 301  
24 Reno, NV 89501

25 And

26 Susan L. Schneider  
27 United States Department of Justice  
28 P.O. Box 756  
Littleton, CO 80160

such a notice, but retains such water rights, shall nevertheless, be bound by the results of this litigation.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_

[signature of counter-defendant]

[name of counter-defendant]

[signature, if applicable, of person acting on behalf of counter-defendant]

[name, if applicable, of person acting on behalf of counter-defendant]

[address].

[telephone number]